

Message Text

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ACTION EB-08

INFO OCT-01 EA-07 IO-13 ISO-00 AGRE-00 CEA-01 CIAE-00

COME-00 DODE-00 FRB-03 H-01 INR-07 INT-05 L-03

LAB-04 NSAE-00 NSC-05 PA-01 EPG-02 AID-05 SS-15

STR-04 ITC-01 TRSE-00 PRS-01 SP-02 FEAE-00 OMB-01

NSCE-00 SSO-00 USIE-00 INRE-00 AF-10 ARA-10

EUR-12 NEA-10 OIC-02 STRE-00 /134 W

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FM USMISSION GENEVA

TO SECSTATE WASHDC IMMEDIATE 9677

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E.O. 11652: N/A

TAGS: ETRD, GATT, JA

SUBJECT: GATT COUNCIL -- THROWN SILK

REF: STATE 172084

SUMMARY. IN LAST MINUTE COMPROMISE SUGGESTED BY GATT COUNCIL CHAIRMAN, GATT WILL SET UP PANEL TO HEAR US DISPUTE IF BILATERAL DISCUSSIONS DO NOT RESOLVE ISSUE BY AUGUST 20. END SUMMARY.

1. AS INSTRUCTED REFTEL, US REP MADE STATEMENT CALLING FOR FORMATION OF PANEL. EC, CITING SIMILAR PROBLEMS AND UNSUCCESSFUL DISCUSSIONS WITH JAPAN UNDER GATT ARTICLE XXII:1 SUPPORTED US AND ASKED FOR PROCEDURE WHEREBY ITS VIEWS COULD BE MADE TO THE PANEL. BRAZIL, TURKEY, AND SWITZERLAND ALSO SUPPORTED US REQUEST FOR A PANEL.

2. JAPAN, SAYING THAT IT HAD NO OBJECTION IN PRINCIPLE TO A PANEL AND WOULD NOT TRY TO DELAY ITS WORK, QUESTIONED PROCEDURES US HAD FOLLOWED, NOTING THAT ARTICLE XXIII:1 CALLS FOR WRITTEN NOTIFICATION WHICH THE US HAD NOT

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MADE. IN VIEW OF THIS PROCEDURAL IRREGULARITY, JAPAN SAID THAT THE QUESTION SHOULD BE REFERRED TO NEXT COUNCIL SO THAT PROCEDURAL REQUIREMENTS COULD BE MET. JAPAN DEFENDED RESTRICTIONS ON THROWN SILK AS NECESSARY FOR THE PROPER FUNCTIONING OF ITS STATE TRADING SYSTEM FOR RAW SILK AND REFERRED TO BUT DID NOT ELABORATE UPON WHAT IT TERMED ERRORS OF FACT IN THE US STATEMENT. NIGERIA

SUPPORTED JAPANESE BY SAYING THAT PROCEDURAL REQUIREMENTS OF GATT SHOULD BE MET. (FULL TEXT OF JAPANESE STATEMENT POUCHED TO WASHINGTON.)

3. WE REBUTTED JAPANESE CONTENTION ON PROCEDURES BY REFERRING TO MANY CONSULTATIONS THAT HAD TAKEN PLACE OVER THE PAST YEAR AND INDICATING THAT WE MIGHT ASK FOR SPECIAL COUNCIL IN AUGUST TO TAKE UP MATTER.

4. CHAIRMAN THEN INTERVENED TO SUGGEST THE FOLLOWING COMPROMISE WHICH WOULD MEET JAPANESE PROCEDURAL REQUIREMENTS AND NEED FOR SPEEDY ESTABLISHMENT OF PANEL STRESSED BY US: QUOTE. THE COUNCIL REQUESTS THE UNITED STATES AND JAPAN TO PURSUE THEIR BILATERAL CONSULTATIONS UNDER ART XXIII:1 ON THIS MATTER FOR A FURTHER PERIOD. THE COUNCIL FURTHER AGREES THAT IF THESE CONSULTATIONS DO NOT LEAD TO A MUTUALLY SATISFACTORY SOLUTION, AN APPROPRIATE PROCEDURE FOR COONSIDERATION OF THE US COMPLAINT UNDER ARTICLE XXIII:2 WOULD BE THE ESTABLISHMENT OF A PANEL. THE COUNCIL AUTHORIZES CHAIRMAN TO UNDERTAKE THE NECESSARY STEPS FOR THE ESTABLISHMENT OF A PANEL IF THE MATTER HAS NOT BEEN SETTLED SATISFACTORILY ON A BILATERAL BASIS BY AUGUST 20. THE TERMS OF REFERENCE OF SUCH A PANEL WOULD BE AS FOLLOWS: "TO EXAMINE, IN THE LIGHT OF THE RELEVANT GATT PROVISIONS, THE MATTER REFERRED BY THE US RELATING TO JAPAN'S MEASURES ON IMPORTS OF THROWN LIMITED OFFICIAL USE

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SILK, AND TO MAKE SUCH FINDINGS AS WILL ASSIST THE CONTRACTING PARTIES IN MAKING RECOMMENDATIONS OR RULINGS, AS PROVIDED FOR IN ARTICLE XXIII:2." END QUOTE.

5. WE ACCEPTED THIS SOLUTION AFTER RECEIVING ASSURANCES FROM THE JAPANESE THAT

A. THEY WOULD IMMEDIATELY UNDERTAKE WITH US TO SELECT PANEL MEMBERS SO THAT THE COUNCIL CHAIRMAN COULD FOR THE PANEL WHEN NEEDED.

B. THEY WOULD AGREE TO THE CONVENING OF THE PANEL IN EARLY SEPTEMBER AS SOON AS THE PANEL MEMBERS COULD MEET: AND

C. THEY WOULD NOT BLOCK THE PANEL'S REPORT TO THE COUNCIL.

6. COMMENT: MISSION BELIEVES THAT THIS SOLUTION ACHIEVES US OBJECTIVES IN THAT IT ALLOWS WORK ON FORMING A PANEL TO GO FORWARD WHILE GIVING A GATT COVER TO CONTINUING BILATERAL DISCUSSIONS. NO TIME IS LOST SINCE PANEL COULD, IN ANY CASE, NOT MEET BEFORE SEPTEMBER. FINALLY, SHOULD THE US REACH A BILATERAL AGREEMENT(INVOLVING A US QUOTA) WITH THE JAPANESE WITHIN THE ALLOTTED PERIOD, WE CAN MORE EASILY WITHDRAW OUR COMPLAINT WITH MINIMUM

DAMAGE TO OUR GATT REPUTATION.
VANDEN HEUVEL

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